SOVEREIGNTY
- Systems of government are defined in terms of *sovereignty*:
  - Fundamental governmental authority.
  - The right to govern a particular people or territory.

UNITARY STATES
- In a **unitary state** (or system) only the *national* government is sovereign.
- Country may be divided into provinces, counties, etc. but they are only *administrative* subdivisions.
- Examples include:
  - France
  - Israel
  - Japan
  - New Zealand
CONFEDERATIONS

- A **confederation** (or **confederal system**) is a government formed by sovereign states working together for common purposes.
- Central government's powers are limited to those granted by the states.
- Examples include:
  - U.S. under the Articles of Confederation.
  - Switzerland (until 1848).
  - The European Union (to an extent...)

FEDERAL STATES

- A **federal state** (or federation) shares sovereignty between the national and subnational governments.
- The nation and its units (states, provinces, etc.) may have both overlapping and non-overlapping areas of responsibility.
- Examples include:
  - The United States (since 1789)
  - Brazil
  - Canada
  - Germany
FEDERALISM IN THE UNITED STATES

- Many national powers (sometimes called delegated powers), including some of the enumerated powers of Congress.
- Concurrent powers are shared between the state and federal governments.
- Reserved powers are powers executed by the states alone; however, other powers are denied to the states.

NATIONAL (DELEGATED) POWERS

Powers that can be exercised solely by the national government:

- Conduct foreign relations, including issuing declarations of war.
- Coin money and issue paper currency.
- Regulate interstate commerce.
- Regulate foreign commerce, including imposing tariffs and trade sanctions.
- Provide for national defense.
CONCURRENT (SHARED) POWERS

Powers that can be exercised by both state and national governments:
- Levy taxes; spend and borrow money.
- Establish courts.
- Charter corporations and banks.
- Make and enforce laws.
- *Eminent domain*: take private property for public use, subject to compensation.

RESERVED POWERS OF THE STATES

Powers that only the states may exercise:
- Regulate time, place, and manner of elections.
- Regulate *intrastate commerce* (commerce within the state).
- Organize *political subdivisions* like counties, cities, and school districts.
- Exercise *police power* over public health, safety, welfare, and morality.
- Ratify amendments to the U.S. Constitution.
MAJOR LIMITATIONS ON STATE POWER

States may not...

- issue currency, coin money, or declare anything other than gold or silver legal tender.
- levy tariffs on imports or exports without Congress' approval.
- enter into treaties or alliances with other countries.
- enter into agreements with other states (known as interstate compacts) without Congress' consent.
- pass bills of attainder, ex post facto laws, or abridge contracts.

OBLIGATIONS OF THE STATES

States also have certain obligations to the other states, subject to exceptions:

- Must give full faith and credit to the public acts of other states, such as court decisions and legal contracts.
- Must respect the equal privileges and immunities of citizens of other states; cannot favor residents over non-residents in their public policy.
- Extradition of those suspected or convicted of crimes back to the state where they are wanted.
Supreme Court decided it had authority to mediate issues of dual sovereignty in *McCulloch v. Maryland* (1819):

- **Necessary and Proper Clause** (or Elastic Clause): gives Congress authority to “make all laws which shall be necessary and proper to carrying into execution” the enumerated powers: additional powers known as implied powers.
- **Supremacy Clause**: federal constitution and laws “supreme law of the land.”

Combined effect: Congress could go well beyond its enumerated powers, and states had to defer to expansion of federal power.

---

Congress can “regulate commerce... among the several states.”

- Applied to state efforts to control trade between states in *Gibbons v. Ogden* (1824).
- During the New Deal era, Supreme Court allowed Congress to regulate almost any action that might affect the national economy: *NLRB v. Jones & Laughlin Steel* (1937); *Wickard v. Filburn* (1942).
THE SPENDING POWER

- Congress has the power to spend money providing for the “general welfare.”
- When Congress gives money to states and local governments, it often requires states to do things in return.
- Examples:
  - Raising the drinking age to 21 (*South Dakota v. Dole*, 1987)
  - Seatbelt laws
  - Motorcycle helmet laws

LIMITS ON FEDERAL POWER?

- The Supreme Court has occasionally said the federal government has gone too far:
  - In the 1990s, the Supreme Court struck down parts of several laws on federalism grounds.
  - In 2012, the Court somewhat limited the spending power in *National Federation of Independent Business v. Sebelius* (PPACA case): states could not lose all federal funds for existing Medicaid recipients if they refused to expand the program.
STATE POWER AND NULLIFICATION

- Two constitutional amendments designed to protect state governments' authority:
  - Tenth Amendment (states and the people retain powers not delegated to the federal government).
  - Eleventh Amendment (sovereign immunity).
- After *McCulloch*, some states argued in favor of the **nullification doctrine**: that states could refuse to follow federal laws they believed were unconstitutional.
- Reflects older compact theory of federal–state relations.

DUAL AND COOPERATIVE FEDERALISM

- Traditionally, relationship between state and national governments was understood as dual federalism: each government did its own thing, with little overlap in responsibilities.
- The expansion of national government power during FDR's presidency produced a new arrangement: cooperative federalism (sometimes called marble cake federalism).
- Rather than two separate “spheres” of power—the dual federalism model—powers of the state and national governments overlap. Reflects the nationalist theory of federal-state relations.
COOPERATIVE FEDERALISM IN PRACTICE

- Political scientists who defined the term believed there would be genuine cooperation between state and national governments to design effective programs.
- Instead, however, many of the new national programs gave states major administrative responsibilities but little input.

USING THE SPENDING POWER

- Congress has several options for getting the states to do things it is unable or unwilling for the federal government to do:
  - Categorical grant programs.
  - Block grant programs.
  - Using unfunded mandates.
CATEGORICAL GRANTS

- Federal grants to a state or local government that include specific rules and regulations for the use of funds.
- Examples:
  - SNAP (“Food Stamps”).
  - Head Start.
  - Medicaid.
  - No Child Left Behind.

DEVOLUTION AND BLOCK GRANTS

- States and some national politicians (former governors like Nixon, Carter, and Reagan) pushed for returning more powers to the states: devolution.
- Block grants: federal grants with fewer “strings” attached.
- Examples:
  - “Community Development Block Grants”
  - Temporary Assistance to Needy Families (TANF).
UNFUNDED MANDATES

- Congress requires states to do things without providing the needed funding.
  - **No Child Left Behind**: required states to increase testing of students, but didn’t pay to develop the needed tests.
  - **REAL ID Act**: required states to make driver’s licenses/state IDs more secure, but states had to spend millions changing issuing processes.

IS DEVOLUTION DEAD?

- Although states are “laboratories of democracy,” and national politicians often use rhetoric supporting devolution, they remain reluctant to give up control.
- Politicians often are responding to public demands to “do something” about problems, even when state and local governments may be better equipped to solve them.